

SENATE BILL 238

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C4

2004 Regular Session
(4lr1493)

ENROLLED BILL
-- Finance/Economic Matters --

Introduced by **Senator Astle**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Insurance - Surplus Lines Brokers - Policy and Inspection Fees**

3 FOR the purpose of altering certain authority of certain surplus lines brokers to
4 charge certain policy fees on certain policies procured by certain licensed
5 producers to whom the surplus lines broker pays a commission; specifying a
6 certain limit on the policy fee that a certain surplus lines broker may charge on
7 a policy issued by an authorized insurer that was procured by ~~a licensed~~
8 ~~producer~~ certain licensed producers to whom the surplus lines broker pays a
9 commission; requiring the policy fee to be reasonably related to the cost of
10 underwriting, issuing, processing, and servicing the policy by the surplus lines
11 broker for the authorized insurer; authorizing a certain surplus lines broker to
12 recoup from a prospective insured the actual cost of an inspection required for
13 the placement of the insurance with an authorized insurer under certain
14 circumstances; specifying that only one inspection fee may be charged to recoup
15 the actual cost of an inspection for each policy or certificate of coverage issued by
16 an authorized insurer; specifying that only one policy fee may be charged for
17 each policy or certificate of coverage issued by an authorized insurer; and

1 generally relating to policy and inspection fees charged by surplus lines brokers.

2 BY repealing and reenacting, with amendments,

3 Article - Insurance

4 Section 27-216(d)

5 Annotated Code of Maryland

6 (2002 Replacement Volume and 2003 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Insurance**

10 27-216.

11 (d) (1) Notwithstanding subsection (a) of this section, a surplus lines broker
12 that holds a certificate of qualification under Title 3, Subtitle 3 of this article may
13 charge a reasonable policy fee ON A POLICY ISSUED BY A SURPLUS LINES INSURER
14 not exceeding:

15 (i) \$100 on each personal lines policy procured by a licensed
16 insurance producer NOT AFFILIATED WITH OR CONTROLLED BY THE SURPLUS LINES
17 BROKER AND to whom the surplus lines broker pays a commission; or

18 (ii) \$250 on each commercial lines policy procured by a licensed
19 insurance producer NOT AFFILIATED WITH OR CONTROLLED BY THE SURPLUS LINES
20 BROKER AND to whom the surplus lines broker pays a commission.

21 (2) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF
22 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN
23 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY CHARGE
24 A REASONABLE POLICY FEE ON A POLICY ISSUED BY AN AUTHORIZED INSURER NOT
25 EXCEEDING:

26 ~~(i) \$100 ON EACH PERSONAL LINES POLICY PROCURED BY A~~
27 ~~LICENSED INSURANCE PRODUCER TO WHOM THE SURPLUS LINES BROKER PAYS A~~
28 ~~COMMISSION; OR~~

29 ~~(ii) \$250 ON EACH COMMERCIAL LINES POLICY PROCURED BY A~~
30 ~~LICENSED INSURANCE PRODUCER NOT AFFILIATED WITH OR CONTROLLED BY THE~~
31 ~~SURPLUS LINES BROKER AND TO WHOM THE SURPLUS LINES BROKER PAYS A~~
32 ~~COMMISSION.~~

33 [(2)] (3) The policy fee charged in accordance with this subsection must
34 be reasonably related to the cost of underwriting, issuing, processing, and servicing
35 the policy by the surplus lines broker for the surplus lines insurer OR THE
36 AUTHORIZED INSURER.

1 [(3)] (4) Notwithstanding subsection (a) of this section, a surplus lines
 2 broker that holds a certificate of qualification under Title 3, Subtitle 3 of this article
 3 may recoup from the prospective insured the actual cost of an inspection required for
 4 the placement of surplus lines insurance WITH A SURPLUS LINES INSURER if:

5 (i) the inspection is required by the surplus lines insurer;

6 (ii) the cost of the inspection is actually incurred by the surplus
 7 lines broker and not retained by the surplus lines broker; and

8 (iii) the cost of the inspection is documented and verifiable.

9 (5) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF
 10 QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN
 11 INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY RECOUP
 12 FROM THE PROSPECTIVE INSURED THE ACTUAL COST OF AN INSPECTION REQUIRED
 13 FOR THE PLACEMENT OF INSURANCE WITH AN AUTHORIZED INSURER IF:

14 (I) THE INSPECTION IS REQUIRED BY THE AUTHORIZED INSURER;

15 (II) THE COST OF THE INSPECTION IS ACTUALLY INCURRED BY THE
 16 SURPLUS LINES BROKER AND NOT RETAINED BY THE SURPLUS LINES BROKER; AND

17 (III) THE COST OF THE INSPECTION IS DOCUMENTED AND
 18 VERIFIABLE.

19 [(4)] (6) Regardless of the number of insurers participating on a risk:

20 (i) only one inspection fee may be charged to recoup the actual cost
 21 of an inspection under paragraph [(3)] (4) OR (5) of this subsection for each policy or
 22 certificate of coverage; and

23 (ii) only one policy fee may be charged under paragraph (1) OR (2) of
 24 this subsection for each policy or certificate of coverage.

25 [(5)] (7) On a form approved by the Commissioner, the surplus lines
 26 broker shall:

27 (i) make a clear and conspicuous written disclosure of:

28 1. any inspection fee;

29 2. the total amount of the policy fee;

30 3. the premium tax on the policy;

31 4. any financial interest in the person performing the
 32 inspection, if applicable; and

33 5. whether the surplus lines broker will receive
 34 compensation from the person that performs the inspection; and

1 (ii) notify the prospective insured of the option to obtain the
2 inspection from another person who meets the requirements of or is approved by the
3 surplus lines insurer.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2004.